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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,816	02/27/2004	Richard M. Onyon	FUSN1-01045US0	5654

28554 7590 10/17/2006

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/789,816

Applicant(s)

ONYON ET AL.

Examiner

Sharad Rampuria

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

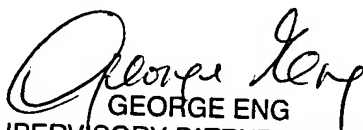
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see continued sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


GEORGE ENG
SUPERVISORY PATENT EXAMINER

Response to Amendments & Arguments

Applicant's arguments filed on 09/14/2006 have been fully considered but they are not persuasive.

A. Relating to Claim 1:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (e.g., the phone may present the user with a user interface on the display asking whether the user wishes to begin the setup, the phone may present the user with a user interface on the display asking whether the user has reviewed and agrees to the terms of the service agreement, and the phone may present the user with a user interface on the display indicating that the registration is complete and asking the user to select a PIN number, the phone may present the user with a user interface on the display asking how often the phone data should be backed up.) **are not recited in the rejected claim(s)**. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In comeback to Applicant's allegation that **Schrire** doesn't teach, "presenting a back-up system user account set-up interface on a user interface on the phone, the set-up interface enabling establishment of a back-up service account;" it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, the backup file 49 is substituted by a "changes to

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be backed up" file including a set of flags for each ADN record in the abbreviated dialing numbers file 36 indicating whether a user has input any changes to the record using the keyboard. Finally, a further file comprises a "Current Backup" file including flags for each record for indicating whether any changes have been made and have been included in the last backup data message which is currently in the buffer 38 or being transmitted by the mobile phone. (Please perceive Pg.15; 0267), Therefore, user initiate to change/setup the backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that *Schrire still teaches the claimed limitations*.

Further, Applicant's allegation that **Schrire** doesn't teach, "presenting a backup scheduling interface to the user interface on the phone, the backup scheduling interface accepting user input on a backup schedule;" it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, Rather than by periodically interrogating the address book data (i.e. EF.sub.ADN data) to look for changes as in the first embodiment, backup messages are initiated by entry of new ADN data via the keyboard of the mobile phone. Restore messages, as in the first embodiment, are instigated by a user request to the backup data service centre. (Please perceive Pg.8; 0131), Therefore, user initiate to change/setup the timing of backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that *Schrire still teaches the claimed limitations*.

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Additionally, Applicant's allegation that **Schrire** doesn't teach, "presenting a restore information interface on the user interface on the phone, the restore interface enabling a user to retrieve backup information to a data store on the phone." it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, Rather than by periodically interrogating the address book data (i.e. EF.sub.ADN data) to look for changes as in the first embodiment, backup messages are initiated by entry of new ADN data via the keyboard of the mobile phone. Restore messages, as in the first embodiment, are instigated by a user request to the backup data service centre. (Please perceive Pg.8; 0131, Pg.3; 0060), Therefore, user initiate to change/setup the backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Schrire still teaches the claimed limitations.***

Because claims 2-19 depend on claim 1, consequently the response is the same explanation as set forth above with regard to claim 1.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

B. Relating to Claim 20:

In comeback to Applicant's allegation that **Schrire** doesn't teach, "the agent including a backup service sign-up interface..., provided to a user interface on the phone;" it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering

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claim unpatentable. In particular, **Schrire** supports the declaration as, the backup file 49 is substituted by a "changes to be backed up" file including a set of flags for each ADN record in the abbreviated dialing numbers file 36 indicating whether a user has input any changes to the record using the keyboard. Finally, a further file comprises a "Current Backup" file including flags for each record for indicating whether any changes have been made and have been included in the last backup data message which is currently in the buffer 38 or being transmitted by the mobile phone. (Please perceive Pg.15; 0267), Therefore, user initiate to change/setup the backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Schrire still teaches the claimed limitations.***

Further, Applicant's allegation that **Schrire** doesn't teach, "the agent including ... a backup method scheduling interface ... provided to a user interface on the phone;" it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, Rather than by periodically interrogating the address book data (i.e. EF.sub.ADN data) to look for changes as in the first embodiment, backup messages are initiated by entry of new ADN data via the keyboard of the mobile phone. Restore messages, as in the first embodiment, are instigated by a user request to the backup data service centre. (Please perceive Pg.8; 0131), Therefore, user initiate to change/setup the timing of backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Schrire still teaches the claimed limitations.***

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Additionally, Applicant's allegation that **Schrire** doesn't teach, "the agent including.., a restore interface calling the restore method, all provided to a user interface on the phone." it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, Rather than by periodically interrogating the address book data (i.e. EF.sub.ADN data) to look for changes as in the first embodiment, backup messages are initiated by entry of new ADN data via the keyboard of the mobile phone. Restore messages, as in the first embodiment, are instigated by a user request to the backup data service centre. (Please perceive Pg.8; 0131, Pg.3; 0060), Therefore, user initiate to change/setup the backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Schrire still teaches the claimed limitations.***

Because claims 21-29 depend on claim 20, consequently the response is the same explanation as set forth above with regard to claim 20.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

C. Relating to Claim 30:

The above arguments also recites for the claims 30-41, consequently the response is the same explanation as set forth above with regard to claims 1-19.

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D. Relating to Claim 42:

In comeback to Applicant's allegation that **Schrire** doesn't teach, "an automated backup process transmitting changes to the backup system at user defined intervals;" it is noted that the Examiner respectfully asserts that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, **Schrire** supports the declaration as, Rather than by periodically interrogating the address book data (i.e. EF.sub.ADN data) to look for changes as in the first embodiment, backup messages are initiated by entry of new ADN data via the keyboard of the mobile phone. Restore messages, as in the first embodiment, are instigated by a user request to the backup data service centre. (Please perceive Pg.8; 0131), Therefore, user initiate to change/setup the timing of backup data via user interface e.g the keyboard. At the same time as in support; "the examiner must give the broadest reasonable interpretation to all claims presented." As stated in MPEP § 2111 - § 2111.01. Hence, it is believed that ***Schrire still teaches the claimed limitations.***

Because claims 43-51 depend on claim 42, consequently the response is the same explanation as set forth above with regard to claim 42.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

E. Relating to Claim 52:

The above arguments also recites for the claims 52-60, consequently the response is the same explanation as set forth above with regard to claims 1-19.

F. Relating to Claim 61:

The above arguments also recites for the claims 61-62, 64-69, consequently the response is the same explanation as set forth above with regard to claims 1-19.

Relating to Claims 16, 18-19:

Because claims 16, 18-19 depend on claim 1, consequently the response is the same explanation as set forth above with regard to claim 1.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

Relating to Claims 46-47:

Because claims 46-47 depend on claim 42, consequently the response is the same explanation as set forth above with regard to claim 42.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.